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C2208004

**Complaint: Wopumnes501c3
and Wanda Nagel v. PG&E**

Exhibit B (part 1)

Santa Cruz County v. PG&E C2101014
CalFire NOVs EXHIBITS 1-6



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C2101014

EXHIBIT "1"

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

P.O. Box 944246
 SACRAMENTO, CA 94244-2460
 (916) 653-7772
 Website: www.fire.ca.gov



October 30, 2020

Joel Smith
 Supervisor, Electric Vegetation Management - Central Coast Division
 Pacific Gas and Electric Company
joel.smith@pge.com

David Perry
 Pacific Gas and Electric Company
D4PC@pge.com

A&E Arborist Inc
 1282 Stabler Lane, Ste 630-118
 Yuba City, CA 95993
 LTO# A11979

Community Tree Service Inc.
 416 Salinas Road
 Watsonville, CA 95076
 LTO# A11046

Mountain F Enterprises
 P.O. Box 208
 Lotus, CA 95651
 LTO# A8657

Dear Mr. Smith, Mr. Perry and LTO's:

On Wednesday October 20, 2020, I notified PG&E in writing that CAL FIRE needed PG&E to file Utility ROW Exemption applications for the ongoing work associated with the CZU Lightning Fire in San Mateo and Santa Cruz County. This was after discussions starting on October 7th about filing exemptions for this work. I was notified by email by PG&E on October 27th that they would not be complying with my order to obtain permits for this work.

On October 28, 2020, I inspected a small portion of the burned area and encountered several different contractors (listed above) operating along the powerlines. I confirmed that the areas where they were working met the definition of "Timberland" under the California Public Resources Code (PRC) section 4526. I observed Ponderosa Pine, Douglas fir and Redwood trees growing and regenerating on the property. I observed numerous Ponderosa Pine, Douglas fir and Redwood trees growing on these lands and an active operation cutting, yarding and decking numerous trees of these species and clearing lands under and around the powerlines, sometimes up to 100' away from the lines themselves. In my training and experience, this activity would meet the definition of "Timber Operations" (PRC § 4527) occurring on Timberlands.

Per PRC §§ 4571 and 4581, timber operations require both a permit and a license. Failure to obtain these permits and failure to use a Licensed Timber Operator are violations of the Public Resources Code and can be cited as misdemeanors.

Over the past 2 years, PG&E has prepared Utility Right of Way Conversion exemption permits (14 CCR § 1104.1(c)) for this type of work. I checked our records and could not find any permit approved for this work even though 2 were filed in this unit prior to June 2020. As no permit for these operations have been filed, the work I observed on the 28th is in violation of the PRC and the Forest Practice Rules.

In the field, I met with representatives of the 3 contractors or talked to them on the phone later that day. All three confirmed that they were working for PG&E and were holders of valid LTO licenses. I asked each if they had a permit for this work and all told me they didn't. One told me that he assumed that PG&E had one, but he didn't have it in his possession. I informed them that there were not permits in place and told them that I would be issuing them a Notice of Violation (NOV) for Timber Operations without a permit. I also told them that each day they remained in operation without a permit in place would be an additional count per violation. I told them I was not shutting them down but needed them to come into compliance with the rules.

In addition to the above violations, I also observed additional operational violations of the rules:

Along Warrenella road and on the Gate 4 and Gate 5 roads, all dirt and gravel seasonal roads, I encountered several sections where road watering was needed. I encountered dust depths over 4" deep including steep grades where the dust was flowing into the outlets of drainage features above watercourses. This would be a violation of 14 CCR § 923.7(c) - Maintaining the running surfaces of logging roads during Timber Operations to prevent excessive loss of road surface materials. This condition places the downslope watercourses at risk from massive sedimentation, either from direct deposit of sediment into the watercourse during operation or during rainfall events. As we are currently inside the designated Winter Operating Period, this is a major concern considering the anadromous fishery status and other RAES species habit downstream. Road watering must be immediately initiated on these road sections.

In Santa Cruz County, the Winter Operating Period starts on October 15th each year. As this inspection occurred on October 28th and no permits had been filed, there is no Winter Operating Plan in place for Timber Operation as required by the rules. These Timber Operations are therefore in violation of 14 CCR § 914.7. This is concerning as there several miles of unwinterized seasonal roads open for these operations and it is unlikely that they could be quickly winterized prior to a storm event.

In several sections of Class III drainage, I observed slash and debris generated by these operations within the watercourses. The slash is required to be either removed or stabilized prior to October 15th per 14 CCR § 916.4(c)(3).

These violations were observed during my inspection on October 28th. Unfortunately, as no permits are in place, we have no way to associate each violation to the appropriate LTO or even designated LTO. All violations in this notice apply to all parties listed above.

Due to the size of the burned area and the extent of the impact to the utility powerline ROW's, My staff and I will be completing additional inspections in the near future where I might observe additional violations. I will send those notifications as they come up.

Due to these violations, I must inform you that continued Timber Operations without the appropriate permits or continued violations of the operational sections of the Forest Practice Rules could result in charges being filed with the District Attorney or Civil action by the department. I must also remind you that violations per PRC §§ 4601 and 4602 are considered misdemeanors and can be processed either criminally or civilly with penalties up to \$10,000 per count.



Sincerely,

Richard Sampson, RPF #2422
Forest Practice Inspector
6059 Highway 9 P.O. Drawer F-2
Felton, CA 95018
(831) 335-6740

Cc:
Region
Sacramento Program
Santa Cruz County District Attorney

EXHIBIT “2”

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

P.O. Box 944246
 SACRAMENTO, CA 94244-2460
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 Website: www.fire.ca.gov



November 11, 2020

Via Electronic Mail
 Michael Ritter
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Michael.Ritter@pge.com

Joel Smith
 Supervisor, Electric Vegetation Management - Central Coast Division
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 LTO# A11979

Community Tree Service Inc.
 416 Salinas Road
 Watsonville, CA 95076
 LTO# A11046

Mountain F Enterprises
 P.O. Box 208
 Lotus, CA 95651
 LTO# A8657

Dear Mr. Ritter and LTO's:

Since October 28th, 2020, CALFIRE Forester Scott Bullock and I have been inspecting portions of the Timber Operations that your contractors/Licensed Timber Operators (LTO's) have been conducting since August of 2020. I am in receipt of your letter dated November 4, 2020. What I do agree with is that it's critical for CAL FIRE and PG&E to work together to help the utility come into compliance with numerous environmental regulations and prepare the ground you have been operating on since the fire for winter.

As we continue to inspect the Timber Operations that your company is directing, one of the most critical issues we have observed is the poor condition of what I estimate as over 17 miles of seasonal private roads that your operations have impacted. With rain forecast for this weekend and being almost 4 weeks into the designated Winter Operating Period, having this much road unprepared with the amount of use it is seeing is not appropriate. We received a slight amount of precipitation across the burn area this past weekend and more is forecast later this week. Given

that these roads are in Coho and Steelhead watersheds, several water districts and companies pull surface water downstream from your operations, the rainfall history of this portion of the Santa Cruz Mountains and the amount of loose sediment we've observed perched adjacent and above or within watercourses and WLPZ's, the potential for significant environmental damage is present.

Not watering seasonal roads on your operations is a common issue that we continue to observe. We see roads watered in one section one day with frequent use by your crews and no water truck returning for several days and other roads that don't appear to ever get watered. This has resulted in the loss of integrity of the road surface and excessive buildup of dust which is a significant source of sediment during initial rainfall events. We have observed this on just about all seasonal private roads associated with this operation. This is a violation of 14 CCR §§ 923.7(c). In addition to lack of maintenance of the road surface, lack of waterbar installations or cleanout of rolling dips was observed. As this is after the start of the Winter Period, this is a violation of 14 CCR §§ 916.6(a).



Photo taken 11-4-2020 by S. Bullock Photo Point SB-2. Shows lack of road watering and waterbars on seasonal road. Note, this road segment is on Big Basin Water Co. Lands in the Boulder Creek watershed above numerous water intakes and Coho and Steelhead habitat.

On October 30, 2020 I observed Mountain Enterprises Inc. equipment working on the westside of Swanton Road on the hill north of the Scott Creek Bridge near the old School House. The powerline parallels what appears to be a Class III watercourse for 150 yards. The current road is under the powerline and an old road bed is just west of it in a draw. Drainage has been diverted in the past into the old roadbed away from the new road and a channel has formed.

This channel meets the definition of a Class III watercourse and drains into Scott Creek 800' below. I observed evidence of runoff at this location following the slight rainfall this past weekend that transported sediment into Scott Creek which is a Class 1 stream. I observed logs deposited in the Class III channel and an excavator working directly in the channel. In discussions with the crew, they told me that they had not received any direction about dealing with the watercourse including a decision to either remove or stabilize the debris in the channel. This is a violation of both 14 CCR §§ 916.4(c)(1) and (3). It should be noted that this site is within the Coastal Zone.



Photo taken 10-30-2020 by R. Sampson. Photo point RS-2. Shows operations in a Class III drainage.

On October 30, 2020, while on the Redtree Properties LLC THP (1-18-179-SCR), I observed soil and debris deposited directly into Hyman Creek, a Class II drainage. Included in the grading project was a short (100') spur road on 50% slope leading to a new powerpole installed as part of the transmission line repair following the fire. The spur road had no waterbars or other drainage, was surfaced with loose fine soil and as graded storm runoff would drain down its entire length directly into Hyman Creek. There was no evidence of erosion control work at this site which normally would include removal of the soil from the stream channel along with straw or waterbars on the spur road. This is a violation of 14 CCR §§ 916.3(b).



During the period where active fire was burning in the San Vicente Creek area, I received reports of a crossing of San Vicente Creek, a Class I fishery, by a large tracked vehicle, possibly a bulldozer, by a PG&E contractor working to repair the transmission line. I received a photo from the Land Owner (San Vicente Redwoods, Nadia Hamey) showing evidence of that event (See below). Hamey told me that she took that photo when meeting with PG&E representatives to discuss how they were going to mitigate the damage the utility was responsible for.



Post fire photo at Photo Point RS-4, taken by RPF Nadia Hamey. Shows track marks of equipment crossing of San Vicente Creek.

On Friday November 7, 2020, I drove to that crossing and observed evidence of the unpermitted crossing. I also observed that some erosion control efforts had occurred to attempt to mitigate the damage to the creek and banks. I was able to observe evidence that a large tracked piece of heavy equipment had crossed through the creek and appeared to be going from east to west. This is a violation of 14 CCR §§ 916.9(e)(1), operations within a channel zone. It appeared that soil had been removed from the crossing evident in the earlier photo and that a single layer of Jute netting had been placed on the banks of the stream at the crossing site.

I recognized this site as an old abandoned crossing from an inspection I made for a THP in approximately 2003. At that time the RPF's for the 2 THP's I was inspecting told me that they were working with PG&E to stop any more use of that crossing and a restoration effort was included in those 2 plans to abandon this road. It appears to me that all of the mitigation work conducted in 2004 for those plans and over 15 years of recovery has been negated by this violation. That stream is not only a fishery but also serves as the water supply for the town of Davenport. All of this damage is within the Class I WLPZ for the current THP prepared by the landowners.

In addition, I saw evidence that the efforts to mitigate the recent damage to the watercourse were inadequate given current conditions at the site. Both approaches to this crossing are tractor roads on steep slopes with loose soil resulting from excessive use by heavy equipment without soil stabilizing measures. The amount of heavy equipment activity that occurred at this site since the fire has generated a deep layer of fine sediment that is perched upslope from this Class I watercourse.



Photo taken 11-6-2020 by R. Sampson. Photo point RS-4. Shows tractor crossing of San Vicente Creek after previous corrective work. Note extent of jute netting only 15' each approach and bare soil not covered at base of left (west) approach.

The hand dug waterbar on the west approach to the crossing is less than 4" deep and given the length and steepness of the skid trail above, that one stand alone, substandard waterbar is not adequate given conditions and events I've observed at that location during past winters. The eastern approach has deeper loose soils with poor drainage extending up the tractor trail for over 200'. I saw little to no filter capacity for the expected runoff. Standard protection measures required by the rules would require several waterbars that were at least 12" deep and straw mulch or slash packing to provide coverage from the channel out to the edge of the WLPZ boundary (100') on both sides.

PG&E shall provide a plan with a schedule for completion for a more appropriate level of protection for this unapproved Class I crossing of San Vicente Creek. This work should be coordinated with California Department of Fish and Wildlife and Regional Water Quality Control Board staff for any required permits from those departments.

It should be noted that THP 1-18-179-SCR, (Meylay) is an active THP and both Photo points RS-3 and RS-4 are within that THP. I talked to the RPF of record for that plan (Bissell) to confirm that the work that created the conditions that constituted the violations were not part of that Timber Operation, no work by the LTO for that plan occurred in those locations. It should also be noted that I observed road watering occurring within the plan area but I confirmed that it was only initiated by the LTO. Once the THP work had been completed, the only operational traffic on that road was by the Utility.

The PG&E Burns – Lonestar Transmission line parallels the west side of Empire Grade Road between its crossing of San Vicente Creek by Los Robles Road and a point where it crosses Empire Grade north of Camp Ben Lomond. Along that line the road had been regraded and numerous sections have fill perched adjacent of above watercourses. As the winter period started on October 15th, and there was more than 30% chance of rainfall on the day this was inspected (November 6, 2020) this is a violation of both 14 CCR §§ 914.6 and 916.9(n)



Photo taken 11-6-2020 by R. Sampson. Photo point RS-5 looking east upslope. Shows Class III drainage with new rocky crossing but lower right is uncontrolled bare filled created during operations. Drainage across this fill (see next photo) is all directed down its length into the watercourse channel without breaks or filter.



Photo taken 11-6-2020 by R. Sampson. Photo point RS-5 looking south along the ROW.

On San Vicente Redwoods property, east of gate 12, at Photo point SB-9, a known unstable area was inspected. The CAL FIRE Forester observed evidence of recently cut redwoods and equipment operations within the unstable area. This is a violation of 14 CCR §§914.2(d).



Photo taken 11-7-2020 by S. Bullock Photo Point SB-9. Shows unstable area below Gate 12 Road.

I noticed in some locations where violations were observed on my previous inspections contractors have initiated work to incorporate soil erosion measures before leaving the site. Most notably in the areas where I've observed Mountain Enterprises crews working, I've observed some restoration of waterbars and some strawing of bare soils. I understand that Mountain Enterprises brought in their own RPF to direct their crews in this effort. Unfortunately, I only observed that effort in a small portion of the areas where these operations occurred with Mountain Enterprises crews. If the same direction, effort and quality of work could be initiated in the rest of the work areas most of these violations would not be necessary.

The Forest Practice Rules require protection measures for Archaeological sites (14 CCR §§ 929) by Timber Operations. If a Utility ROW Exemption had been applied for, an Archaeological Records Check by the Utility would have identified at least one recorded site that currently has Timber Operations occurring on it. It is unclear if damage has occurred on that site but it is the understanding that the landowners representative informed PG&E staff about that site both prior to the fire but also prior to a majority of the disturbance to that site following the fire. Due to confidential requirements protecting Archaeological sites, the specific site location or description is precluded from being included in this letter. The Utility shall provide an accounting of what protection measures have been applied to protect this resource. During my last inspection, I noticed numerous pieces of heavy equipment still operating within the sites boundaries.

Due to the size of the CZU Lighting Fire, commitments by my staff on other issues related to the fire, this should not be considered a full accounting of all violations that exist on your operations. As time allows with other emergency work my staff is committed to, we will continue to do additional inspections. We will continue to issue our reports as we find issues.

In my previous letter dated October 30, 2020, several violations including PRC 4581, 14 CCR §§ 1104.1(c), 923.7(c), 914.7, were identified. As I pointed out, each violation that is observed and is continued to be observed on follow-up inspections would be treated as a separate count per violation per day. We are now exceeding 10 days of non-compliance with multiple violations.

Due to these violations, I must again inform you that continued Timber Operations without the appropriate permits or continued violations of the operational sections of the Forest Practice Rules could result in charges being filed with the District Attorney or Civil action by the department. I must also remind you that violations per PRC §§ 4601 and 4602 are considered misdemeanors and can be processed either criminally or civilly with penalties up to \$10,000 per count.

If you have any questions about these matters, you may contact me at the address below.



Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Sampson".

Richard Sampson, RPF #2422
 Forest Practice Inspector
 6059 Highway 9 P.O. Drawer F-2
 Felton, CA 95018
 (831) 335-6740

Cc:
 Region
 Sacramento Program
 Santa Cruz County District Attorney
 California Department of Fish and Wildlife
 Regional Water Quality
 California Coastal Commission

EXHIBIT “3”

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

P.O. Box 944246
 SACRAMENTO, CA 94244-2480
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November 18, 2020

Via Electronic Mail

Michael Ritter
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Joel Smith
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Mountain F Enterprises
 P.O. Box 208
 Lotus, CA 95651
 LTO# A8657

**RE: Notice of Violation #3 – CZU Lightning Fire Utility Work
 1-20NON-00122-SCR**

Dear Mr. Ritter, Smith and LTO's:

Thank you for your photo packet sent on Friday, November 13th. Several items from my 2nd Notice of Violation (NOV) to you were addressed in that document. Unfortunately, there is much more work to do before the areas your crews have initiated Timber Operations are ready for Winter. In addition, as I have pointed out in previous letters, we are well into the Winter Period (October 15th), we have had over 3" of rainfall accumulate and your crews continue their clearing operations. This is a continuation of your violation of 14 CCR §§ 914.7, Operations during the Winter Period.

My main concern continues to focus on what I estimate to be over 17 miles of seasonal roads, utilized by your crews in their Timber Operations that have either not been maintained during those operations or have not been prepared for winter rains or a combination of the two. This is a continued violation of 14 CCR §§ 914.6(a)(1).

"The Department of Forestry and Fire Protection serves and safeguards the people and protects the property and resources of



Photo taken 11-16-2020 by R. Sampson Photo Point RS-1. Shows seasonal road that appears to not have been maintained during Timber Operations (watered and graded) with dirt and debris blocking outlet of drainage feature. Note, previous photos taken at same location showed ungraded road with 4" deep powder surface.

All of the erosion control work shown in your November 13, 2020 letter appears to be South and West of Camp Ben Lomond. There are several miles of Transmission Line ROW North and East of the camp with roads that also have not been treated for winter. I observed those conditions on November 16, 2020 along that ROW when the National Weather Service had forecast greater than 30% chance of rainfall within the next 24 hours. That would be a violation of 14 CCR §§ 914.6(a)(2).

Especially concerning are the steep sections of ROW between Empire Grade and Bloom Grade Road that received significant equipment use by your operations this summer and fall. Some of this is on land owned and operated by Big Basin Water Company, the water source for that section of Santa Cruz County. The access roads to that section of Transmission Line are extremely steep, in very poor condition and have little erosion control installed.

Over the past month, my office has received numerous contacts from residents in the burn area, local activists and other agencies about your Timber Operations related to the burn area. Most of the calls involve questions from the public about permission needed by your crews before entering their property and cutting trees. PRC 4195.5 has been identified as the common authority for utility crews to do this type of work on private lands. Over the past week, I've been contacted or encountered 9 separate landowners plus the City of Santa Cruz, Water Division. The City of Santa Cruz land is in the Laguna Watershed upslope of several water intakes for the district. Essentially a 3-acre conversion took place on their lands without prior notice.



Photo taken 11-16-2020 by R. Sampson Photo Point RS-8. Shows new clearing work on Santa Cruz City Water Lands along Ice Cream Grade Road.

All 10 parties have complained about the amount of Utility line clearing that occurred on their ownerships, and the conditions your crews left their properties in. In addition, all made statements that they had not been contacted or allowed to be heard prior to trees being cut. This would be 10 violations of PRC 4295.5, specifically the section: *"after providing notice and an opportunity to be heard to the landowner"*.

The second most common complaint I have been receiving from landowners is the amount of material and slash left on their properties following your crews. Large piles and decks of large logs in addition to large slash piles are frequently seen in these burned over neighborhoods where the utility work has been initiated. Some of this ongoing work was observed during my inspection on November 16, 2020.



Photo taken 11-16-2020 by R. Sampson Photo Point RS-6. Shows large (36" x 20") Douglas fir logs left on 100 Los Robles Dr. property.

My understanding from talking to the complaining parties is that they have no means to dispose of these large decks of logs. Most of the logs are Douglas fir and the value of the wood is far less than the cost of hauling them

off to any mill that would accept them. I strongly encourage the utility to work with these landowners to assist removing this debris generated by your operations.

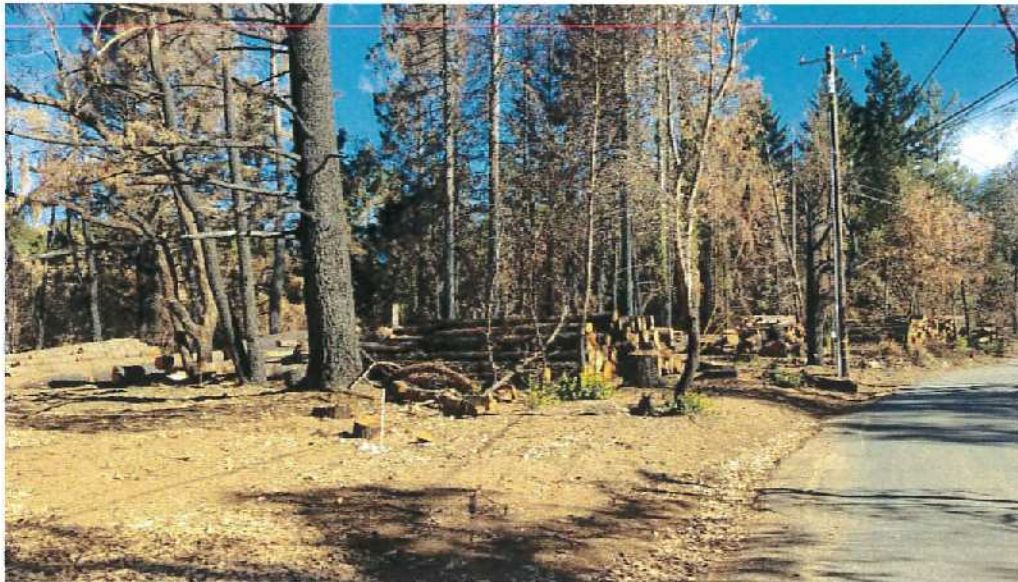


Photo taken 11-16-2020 by R. Sampson Photo Point RS-7. Shows multiple log decks left on 160 Vick Dr.



Photo taken 11-16-2020 by R. Sampson Photo Point RS-7. Shows slash and large chunks of wood left on 111 Molina Dr. property.

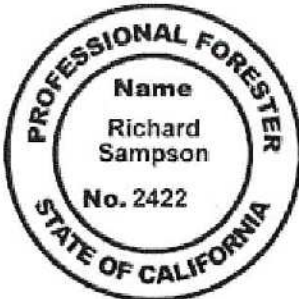
During several meetings with PG&E vegetation management representatives during the fire, we discussed slash removal standards that we would require on Timber Operations. I informed your representatives that we would be looking for compliance with 14 CCR §§ 917.4. This requires slash removal within 50' of public roads and slash treatment between 50' and 100' of public roads and within 200' of "*permanently located structures, currently maintained for human habitation*". This rule will require the slash you have generated by your operations to be treated by April 1, 2021. Normally, we have observed most utilities to comply with these standards immediately following clearing operations in an effort to protect public safety. This appears to not be the case with your current operations.

Due to the size of the CZU Lighting Fire, commitments by my staff on other issues related to the fire, this should not be considered a full accounting of all violations that exist on your operations. As time allows with other emergency work my staff is committed to, we will continue to do additional inspections. We will continue to issue our reports as we find issues. In addition, as we are now experiencing significant rainfall events, we must remind you and your contractors to comply with the standard Winter Operations Rules, specifically equipment operations during periods of Saturated Soil Conditions. (See 14 CCR §§ 923.6(f))

In my previous 2 letters dated October 30, 2020 and November 11, 2020, several violations including PRC 4581, 14 CCR §§ 1104.1(c), 923.7(c), 914.7, were identified. As I pointed out, each violation that is observed and is continued to be observed on follow-up inspections would be treated as a separate count per-violation per day. We are now exceeding 18 working days of non-compliance with multiple violations.

Due to these violations, I must again inform you that continued Timber Operations without the appropriate permits or continued violations of the operational sections of the Forest Practice Rules could result in charges being filed with the District Attorney or Civil action by the department. I must also again remind you that violations per PRC §§ 4601 and 4602 are considered misdemeanors and can be processed either criminally or civilly with penalties up to \$10,000 per count.

If you have any questions about these matters, you may contact me at the address below.



Sincerely,

[Signature]
 Richard Sampson, RPF #2422
 Forest Practice Inspector
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 Felton, CA 95018
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Cc:
 Region
 Sacramento Program
 Santa Cruz County District Attorney
 California Department of Fish and Wildlife
 Regional Water Quality
 California Coastal Commission

EXHIBIT “4”

CALIFORNIA COASTAL COMMISSION

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**VIA ELECTRONIC MAIL**

November 20, 2020

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Re: Violation¹ File No. V-3-20-0089 – Tree Removal in the Santa Cruz Mountains

Dear Messrs. Smith, Ritter, and Perry:

As you may know, the California Coastal Act² was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,250-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation of coastal resources and development within the State's Coastal Zone. The California Coastal Commission ("Commission") is the state agency created by and charged with administering the Coastal Act. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other coastal resource protection goals, protect against loss of life and property from coastal hazards; provide maximum public access to the sea; protect natural landforms; protect scenic landscapes and public views; and seek to protect and restore sensitive habitats, including those within the Coastal Zone in the Santa Cruz mountains.

¹ Please note that the description herein of the violation at issue is not necessarily a complete list of all development that is in violation of the Coastal Act and/or Santa Cruz County's LCP. Accordingly, you should not treat the Commission's silence regarding (or failure to address) other development herein as indicative of Commission acceptance of, or acquiescence in, any such development. Please further note that the word "violation" as used throughout this letter refers to alleged violations of the Coastal Act and/or the County's LCP as determined by Commission staff.

² The California Coastal Act of 1976 is codified in Sections 30000 to 30900 of the California Public Resources Code ("PRC"). References to sections of the Coastal Act are technically to the PRC.

We have received reports from CAL FIRE and Santa Cruz County of recent and ongoing tree removal and related activities being performed by Pacific Gas and Electric Company ("PG&E"), and/or contractors acting on PG&E's behalf, over a large area in the Santa Cruz mountains, including in areas within the Coastal Zone. These activities include the removal of a very significant number of trees (including, but not limited to, Ponderosa pine, Redwood, Cypress and Douglas fir trees), land clearance, grading, road development, placement of cut logs and slash, and other activities, all spread over approximately 17 linear miles, including approximately 6 linear miles within the Coastal Zone. Moreover, many of these activities appear to be taking place within what the Coastal Act refers to as Environmentally Sensitive Habitat Areas ("ESHA"), which are subject to even greater protection under the Santa Cruz County Local Coastal Program ("LCP") and the Coastal Act. The above-described activities constitute "development" as defined in the Coastal Act and the LCP (see below), and such development requires authorization via a coastal development permit ("CDP") prior to such activities being undertaken. Neither PG&E nor its contractors have a CDP authorizing these activities from the Commission or Santa Cruz County.

Pursuant to Section 13.20.050 of the County's LCP and Section 30600 of the Coastal Act, any person wishing to undertake development activities in the Coastal Zone must first obtain a CDP. Development is broadly defined by Section 13.20.040 of the County's LCP and 30106 of the Coastal Act as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511)."

The removal of native trees, grading, land clearance, and the placement of piles or "decks" of cut logs and slash each constitutes development as defined by the Coastal Act and the County's LCP³. Since no CDP was obtained authorizing the subject

³ We understand that there may be a dispute between PG&E and CAL FIRE as to whether these activities fall under the Forest Practices Act, but we understand that you've taken the position that this is not a timber operation and does not fall within that law, which, if true, would make it clear that the vegetation removal aspect of these activities are not subject to the exclusion from the above definition of development for "timber operations which are in accordance with a timber harvesting plan," and thus

development, the aforementioned development is unpermitted and constitutes a violation of the Coastal Act and the County's LCP.

Further, the above-described activities are taking place in or near areas recently burned in the CZU Lightning Fire, and we are very concerned about potential serious adverse impacts associated with these unpermitted activities, including erosion of materials into the various watersheds and associated impacts, especially with the rainy season upon us, and the loss of and/or degradation to significant coastal resources, including ESHA. In addition, it appears clear to us that a potentially devastating effect of PG&E's activities is that they appear primed to exacerbate the already extreme potential for severe erosion due to the fires, including landslides, that could significantly adversely impact residences, roads, water supplies, and coastal streams and habitats. In fact, in a violation letter to you dated November 18, 2020, CAL FIRE estimates that there are "...over 17 miles of seasonal roads, utilized by your crews in their Timber Operations that have either not been maintained during those operations or have not been prepared for winter rains or a combination of the two."

Our concerns here are magnified by the fact that all of these impacts have and are continuing to occur absent any CDP authorization, which would typically include terms and conditions designed to avoid (and, where avoidance is not possible, to reduce and mitigate) these types of adverse coastal resource impacts. CDP processes also allow for public participation so that those most keenly affected and/or interested in such issues have the opportunity to weigh in and have their opinions/concerns heard. As a result of PG&E not participating in that process, to date, no such conditions have been drafted to ensure resource protection and there has been no such opportunity for public input.

Although we are aware that the above-described activities are ostensibly being undertaken for fire safety and response purposes, such objectives by themselves do not relieve PG&E from CDP requirements in the Coastal Zone⁴. We are also aware of Executive Order N-81-20 ("EO"), which allows for the potential suspension of some State statutes, rules, regulations and other requirements when the California Natural Resources Agency determines that the EO is applicable and that such suspension is warranted. However, in this case, it does not appear that such a determination was requested let alone granted in relation to these activities. In sum, the development undertaken and ongoing by or at the behest of PG&E lacks the requisite Coastal Act CDP authorization, and is in violation of both the Coastal Act and the County's LCP.

The Santa Cruz County LCP regulates the removal of trees in the Coastal Zone. Section 16.34.040 of the LCP requires a permit for tree removal in the Coastal Zone and Section 16.34.105 states the following:

remain subject to Coastal Act permitting requirements. In any event, there is no Timber Harvesting Plan now, so that exclusion from the definition of development cannot apply here.

⁴ We also note that it appears that this work may have also required other approvals and permits and that these also may not have been obtained. We have not attempted to research these other potential issues, and this letter focusses solely on the Coastal Act issues of which we have become aware.

(A) It shall be unlawful for any person to do, cause, permit, aid, abet or furnish equipment or labor to remove, cut down, trim more than one-third of the foliage of, poison, or otherwise kill or destroy any significant tree as defined in SCCC 16.34.030⁵ within the Coastal Zone unless: (1) a development permit has been obtained and is in effect which authorizes such activity; or (2) the activity is exempt from the requirement for such a permit by reason of the provisions of SCCC 16.34.090; or (3) there was an emergency caused by the hazardous or dangerous condition of the tree which required the action to be taken immediately for the safety of life or property.

Additionally, Section 16.32.130 states the following:

(A) It shall be unlawful for any person at any time to do, cause, permit, aid, abet, suffer or furnish equipment or labor for any development activity within an area of biotic concern as defined in SCCC 16.32.040 unless: (1) a development permit has been obtained and is in effect which authorizes such development activity; or (2) the development activity has been reviewed for biotic concerns concurrently with the discretionary review of an approved permit required by SCCC Title 13 or 14, and a permit is in effect which authorizes the development activity within such area; or (3) the activity is exempt from the requirement for a development permit by the provisions of SCCC 16.32.105 and from the requirements for a coastal permit by the provisions of Chapter 13.20 SCCC.

And although Section 16.34.080⁶ of the Significant Tree Ordinance does provide for limited emergency tree removal, that emergency provision is not applicable in this case, or at this scale, and it does not obviate the need for PG&E to comply with LCP requirements and protections including CDP requirements (Chapter 13.20), grading requirements (Chapter 16.20), erosion control (Chapter 16.22), riparian/wetland protection (Chapter 16.30) and sensitive habitat protection (16.32).

⁵ LCP Section 16.34.030 defines a significant tree as any tree within the urban service lines or rural services line that is equal to or greater than 20 inches dbh (approximately five feet in circumference); any sprout clump of five or more stems each of which is greater than 12 inches dbh (approximately three feet in circumference); or any group consisting of five or more trees on one parcel, each of which is greater than 12 inches dbh (approximately three feet in circumference); outside the urban services line or rural services line, where visible from a scenic road, any beach, or within a designated scenic resource area, any tree which is equal to or greater than 40 inches dbh. (approximately 10 feet in circumference); any sprout clump of five or more stems, each of which is greater than 20 inches dbh. (approximately five feet in circumference); or, any group consisting of 10 or more trees on one parcel, each greater than 20 inches dbh. (approximately five feet in circumference), and any tree located within sensitive habitat as defined in Chapter 16.32.

⁶ 16.34.080 Emergencies.

In the case of emergency caused by the hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, such necessary action may be taken to remove the tree or otherwise reduce or eliminate the hazard without complying with the other provisions of this article, except that the person responsible for cutting or removal of the tree shall report such action to the Planning Director within 10 working days thereafter. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

With regard to the LCP's CDP requirements, the LCP does provide for emergency CDPs (ECDPs) when it is clear that an emergency situation exists,⁷ provided such emergency development is only temporarily authorized and is the minimum necessary to abate the emergency with the least amount of coastal resource degradation. Such ECDPs include their own terms and conditions designed to help avoid such degradation and to allow for a proper accounting of allowable emergency activities. Although we are aware that PG&E apparently notified County staff after the fact, on Monday, November 2, 2020, that they had begun and were continuing to undertake the above-described activities pursuant to the provisions of the LCP's significant tree ordinance, again, that PG&E action does not obviate the need to obtain an ECDP (or to comply with other LCP provisions). Further, all ECDPs require a follow-up regular CDP designed to allow for the normal CDP process to be undertaken, including importantly in emergency cases, the full assessment of the activities in light of LCP requirements (including the LCP provisions listed above) that is often not possible at the time of the emergency itself. Follow-up regular CDPs also can help identify coastal resource impacts, appropriate mitigations, and other agency approvals and mitigation measures.

Resolution

In order to begin resolution of this matter, PG&E must do all of the following:

1. Immediately cease from undertaking any further unpermitted development.
2. Immediately apply to Santa Cruz County for an ECDP to authorize immediate implementation of "best management practices" measures designed to help reduce the impacts likely to result from the subject unpermitted development, particularly as it relates to protection of residences, roads, water supplies, and coastal streams and habitats at risk from sedimentation and soil movement as a result of rain events. Some best management practices that should be implemented include immediate implementation of short-term actions such as placement of straw, straw wattles and water bars on and adjacent to unpaved roadways. Also, PG&E must work with all relevant agencies (including Santa Cruz County, CAL FIRE, the Board of Forestry (BOF), California Department of Fish and Wildlife (CDFW), Central Coast Regional Water Quality Control Board (RWQCB), the Coastal Commission, etc.) to determine other necessary actions, such as road watering and the removal and/or stabilization of slash in watercourses as well as any other necessary measures for their inclusion in the ECDP.
3. Immediately obtain any and all required permits/authorizations from all relevant agencies (including Santa Cruz County, CAL FIRE, BOF, CDFW, RWQCB, the

⁷ Where LCP Section 13.20.040 defines an emergency as "a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services."

Commission, etc.) to authorize the unpermitted development described herein, insofar as it is consistent with applicable laws.

4. Develop plans for restoration, revegetation, mitigation, and any other measures that are necessary to address the unpermitted activities and to restore damaged resources impacted by the unpermitted activities, to be authorized via either a CDP or enforcement mechanism. We are happy to discuss options going forward, in conjunction with the County and any other relevant agencies with jurisdiction over this matter.

Please contact me as soon as possible and no later than **Tuesday, November 24, 2020** to discuss how PG&E intends to resolve this matter. Given the potential – in what appears to be the very short term given we are now in the rainy season – for even more adverse coastal resource impacts emanating from these PG&E activities, including potential impacts to significant public infrastructure, we appreciate your very prompt reply. Time is of the essence, and every day that goes by without appropriate actions being undertaken both further increases potential problems and also PGE's potential liabilities. In fact, and while we are hopeful that we can resolve this matter quickly and informally, please be advised that Chapter 9 of the Coastal Act has a number of potential remedies to address violations of the Coastal Act, including issuance of Cease and Desist Orders, issuance of Restoration Orders, and the ability to initiate litigation to impose civil liability in an amount not less than \$500 and not more than \$30,000 for each instance of unpermitted development, pursuant to Coastal Act Sections 30809, 30810, 30811, and 30805 and 30820(a), respectively. Additionally, Section 30820(b) provides that additional civil liability may be imposed for illegal development that was undertaken knowingly and intentionally, in an amount not less than \$1,000 and not more than \$15,000 for each day in which the violation persists. And Section 30822 additionally provides for exemplary damages in cases of knowing and intentional violations of the Coastal Act.

We fully intend to work collaboratively with PG&E, CAL FIRE, the County, and other agencies and stakeholders to resolve this violation. We also note that we are proud of our collaborations of this type in the past, particularly with CAL FIRE and BOF where we have found much common ground in relation to forest health and fire prevention activities through CDPs in the Coastal Zone. While unfortunate that this case falls upon us collectively after major activities have already occurred without a CDP, we are hopeful that past lessons learned from normal pre-CDP collaboration can be applied here as well.

Again, we are supportive of responsible actions taken in compliance with all applicable laws necessary to avoid danger and encourage long term planning consistent with legal requirements and are happy to work with you and other relevant agencies with jurisdiction to achieve this. If you have questions about this letter or wish to discuss these matters further, please contact me by email at pat.veesart@coastal.ca.gov or by telephone at (805) 835-8732. Due to concerns about the Coronavirus, Commission offices are physically closed (but virtually open during normal business hours), and all

V-3-20-0089 - PG&E Santa Cruz Mountains
Page 7

correspondence should be conveyed by email unless otherwise required by the Coastal Act or regulation.

Sincerely,

Patrick Veesar

Patrick Veesar
Enforcement Supervisor
California Coastal Commission

cc: Richard Sampson, CAL FIRE
Matt Dias, California Board of Forestry
Wesley Stokes, California Department of Fish and Wildlife
Thea Tryon, Central Coast Regional Water Quality Control Board
Matt Johnston, Santa Cruz County
Bruce McPherson, Santa Cruz County 5th District Supervisor
Mark Stone, Assemblymember, 29th District

Attachment: Coastal Commission Letter to PG&E (9878 : Resolution to support the County of Santa Cruz Filing a Formal Complaint Against

EXHIBIT “5”



PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

MARYBEL BATJER
PRESIDENT

TEL: (916) 823-4840
WWW.CPUC.CA.GOV

November 24, 2020

Via Email

Mr. William L. Smith
Interim Chief Executive Officer
Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105

Mr. Smith:

As you are aware, as a condition of approval of Pacific Gas and Electric Company's (PG&E) plan of reorganization, the California Public Utilities Commission (CPUC) instituted a six-step enhanced oversight and enforcement process to ensure PG&E is held accountable for delivering on its safety responsibilities. By this letter, I am writing to inform you that I have directed CPUC staff to conduct fact-finding to determine whether a recommendation to place PG&E into the enhanced oversight and enforcement process is warranted. These fact-finding activities are well underway and are being undertaken expeditiously.

My concerns arose from what appears to be a pattern of vegetation and asset management deficiencies that implicate PG&E's ability to provide safe, reliable service to customers. Specifically, Wildfire Safety Division Staff has identified a volume and rate of defects in PG&E's vegetation management that is notably higher than those observed for the other utilities. In addition, CPUC staff are reviewing recent filings made by PG&E in its federal criminal proceeding regarding deficiencies and inconsistencies in its vegetation management practices and recordkeeping.

The CPUC has been intensely focused on progress by PG&E in its wildfire mitigation activities this past year. We will require remediation on specific issues identified in PG&E's Wildfire Mitigation Plan progress reports. That work will continue, and I have requested staff to further consider whether a pattern of deficiencies in the company's safety program supports a recommendation to place PG&E into the enhanced oversight and enforcement process.

I also note that a CPUC order to place PG&E into the process does not replace or limit CPUC enforcement authority, including authority to issue Orders to Show Cause and Orders Instituting Investigations and to impose fines and penalties.

At the same time, the Wildfire Safety Division is completing its review of PG&E's request for issuance of a safety certification, pursuant to the requirements of Assembly Bill 1054. The requirements an electric utility must meet to earn a safety certificate are important and provide a critical snapshot of compliance with prior safety culture recommendations and implementation of PG&E's approved Wildfire Mitigation Plan. However, the safety certification is separate from the CPUC's enforcement authority and does not preclude the CPUC from pursuing remedies for past conduct. In particular, the enhanced oversight and enforcement process mentioned above is unique to PG&E because of its failed record in safety, and it is not tied to the statutory requirements for the issuance of a wildfire safety certification.

In short, CPUC staff and I plan to hold PG&E accountable, in real time to fulfill its safety responsibilities, independent and parallel to any other regulatory or judicial process.

The CPUC continues to make customer safety a top priority and expects leadership from PG&E to execute on its safety responsibilities. When PG&E is unable to do this on its own, we have used, and will continue to use, the tools and authority at our disposal to hold PG&E accountable for these responsibilities.

Sincerely,

A handwritten signature in blue ink that reads "Marybel Batjer". The signature is fluid and cursive, with the first name "Marybel" and last name "Batjer" clearly legible.

Marybel Batjer, President
California Public Utilities Commission

Cc:
Service Lists of I.15-08-019, R.18-12-005 and R.18-10-007

EXHIBIT “6”

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

P.O. Box 944246
 SACRAMENTO, CA 94244-2460
 (916) 653-7772
 Website: www.fire.ca.gov



November 30, 2020

Via Electronic Mail

Michael Ritter

Senior Director, Vegetation Management Operations

Pacific Gas and Electric Company

1850 Gateway Blvd

Concord, CA 94520

Michael.Ritter@pge.com

Joel Smith

Supervisor, Electric Vegetation Management - Central Coast Division

Pacific Gas and Electric Company

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David Perry

Pacific Gas and Electric Company

D4PC@pge.com

A&E Arborist Inc

1282 Stabler Lane, Ste 630-118

Yuba City, CA 95993

LTO# A11979

Community Tree Service Inc.

416 Salinas Road

Watsonville, CA 95076

LTO# A11046

Mountain F Enterprises

P.O. Box 208

Lotus, CA 95651

LTO# A8657

**RE: Notice of Violation #4 – CZU Lightning Fire Utility Work
 1-20NON-00122-SCR**

Dear Mr. Ritter, Smith and LTO's:

It has been 33 days since CAL FIRE informed PG&E and the above 3 Licensed Timber Operators that they were in violation of the Forest Practice Rules by conducting Timber Operations without a permit on their operations associated with the CZU Lightning Fire. Since that time, CAL FIRE has observed these Timber Operations occur on 19 separate days. In addition, CAL FIRE has issued several Notices of Violations (NOV's) of which this is number 4. This is a continuation of your violation of 14 CCR §§ 1104 first issued on October 28, 2020, Timber Operations without the required permit.

In Santa Cruz County, the formal winter period is designated as October 15th. At the time of writing, the rain gauge at Camp Ben Lomond indicates that we have received 3.75" of precipitation. All of the days mentioned above

"The Department of Forestry and Fire Protection serves and safeguards the people and protects the property and resources of California."

Attachment: CAL FIRE Notice of Violation to PG&E #4 (9878 : Resolution to support the County of Santa Cruz Filing a Formal Complaint

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where operations have been observed were within the Winter Period. This is a continuation of your violation of 14 CCR §§ 914.7, Timber Operations during the Winter Period.

The current issue and focus of this NOV is that your crews and contractors have yet to complete erosion control activities to prepare the ground that your operations have disturbed prior to winter storms we normally experience in the Santa Cruz Mountains. While some progress has been made, there are still many miles of non-winterized seasonal roads on steep ground above and adjacent to sensitive watercourses that need to be treated. This is a continued violation of 14 CCR §§ 914.6(a)(1).

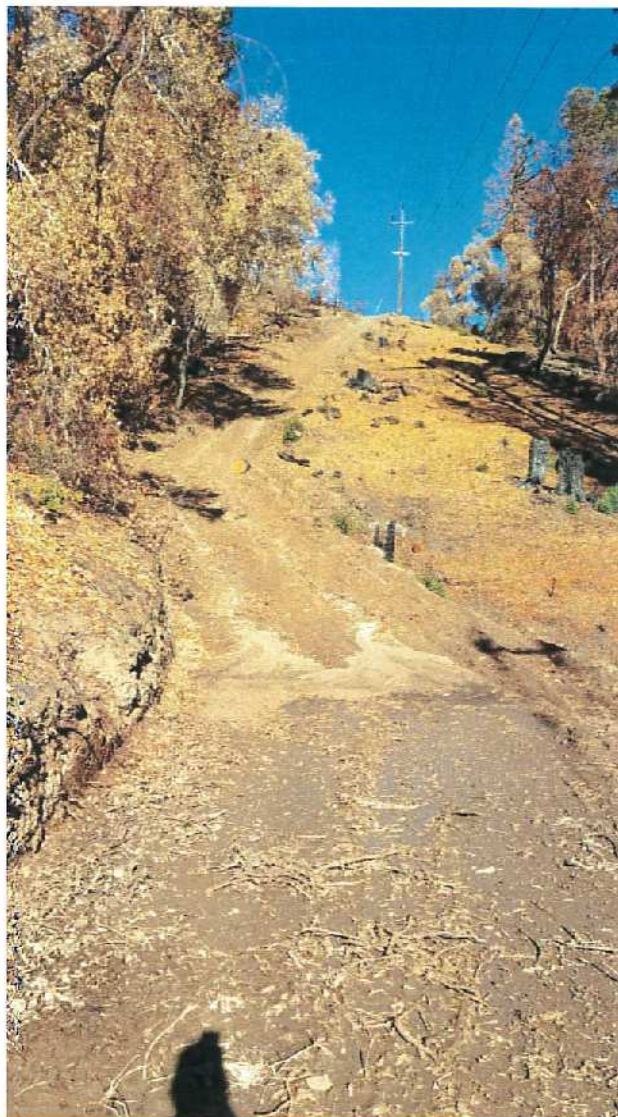


Photo taken 11-23-2020 by R. Sampson Photo Point RS-21. Shows over 500' of seasonal road on a steep slope without any drainage (waterbreaks) installed as required. Note ponded water (40' long and 4" deep) on road at bottom of photo.

At map point RS-21 the only drainage off of this section of seasonal road is where water has ponded at a low point in the road and had breached the berm on the side of the road. I observed runoff extending down toward the Class 3 watercourse below. This section of road shown in the photo is over 500' long without any erosion control work or drainage. This ponded water was observed 5 days following a 3" rain event. Given the past local Forestry experience of this inspector, the concern is this section of ponded road is likely become over saturated and

1-20NON-00122-SCR

collapse, sending road fill and debris flowing into the Class 3 watercourse below. Given the current concern for debris flows within the burn zone, this should be considered a significant public safety hazard, as there are several homes in the Hilton Drive residential area approximately 1,200' downstream.

During the same inspection, three other sections of this same ROW road were similarly unprepared for winter with unbroken grades over 400' long without positive drainage. One section appears to have had waterbars installed earlier, but subsequent ROW maintenance operations this fall have blocked the outlets directing runoff down the road. These are continued violations of 14 CCR §§ 914.6(a).

Please note that in our letter of November 11, 2020 on page 2, 2nd paragraph, a violation to 14 CCR §§ 916.6(a) is listed. That was a typo, it should list it as a violation to 14 CCR §§ 914.6(a).

During our recent inspections, CAL FIRE Foresters have noticed that several locations mentioned in previous letters have had progress made regarding erosion control. At Photo point RS-2 above Swanton Road, the channel has been cleared of project debris and straw wattles have been installed. The work completed appears to have addressed the issue but there is a concern that the straw wattles might not be sufficient for higher flows during a large storm event.

Other areas show varying levels of erosion control. In some cases, the erosion control is adequate as mentioned above, while in several others, erosion control quality appears to be sub-standard given the soils, topography and burn intensities observed in the project area. In any event the forest practice rules are specific about waterbar construction specifications including depth and spacing (14 CCR §§ 914.6). Straw wattles, while appropriate in some situations, do not appear to provide the same protection to the resource as a constructed waterbar.



Photo taken 11-19-2020 by S. Bullock Photo Point SB-5. Note depth of new channel after one rainfall event.

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Photo taken 11-19-2020 by S. Bullock Photo Point SB-22. This is the end of the road segment from SB-5 above. Estimated 10 yards of sediment delivered directly into a Class III Watercourse.



Photo taken 11-14-2020 by S. Bullock Photo Point SB-22. Shows same view as previous photo but prior to 3" rainfall event. Note lack of any drainage and outside berm on road.

1-20NON-00122-SCR



Photo taken 11-19-2020 by S. Bullock Photo Point SB-23. Shows seasonal road after 3" of rain with rilling and displaced sediment flowing into a Class 3 watercourse without erosion control efforts.



Photo taken 11-19-2020 by S. Bullock Photo Point SB-23. Shows same location but looking downstream from crossing down the Class III watercourse. Estimate 3 yards of sediment transported into channel.

These previous 2 locations (SB-22 and SB-23) where sediment has entered a watercourse generated from a seasonal road that lacked adequate erosion control work shows that the roads are not hydrologically disconnected from the watercourse. These are both violations of 14 CCR §§ 923.5.

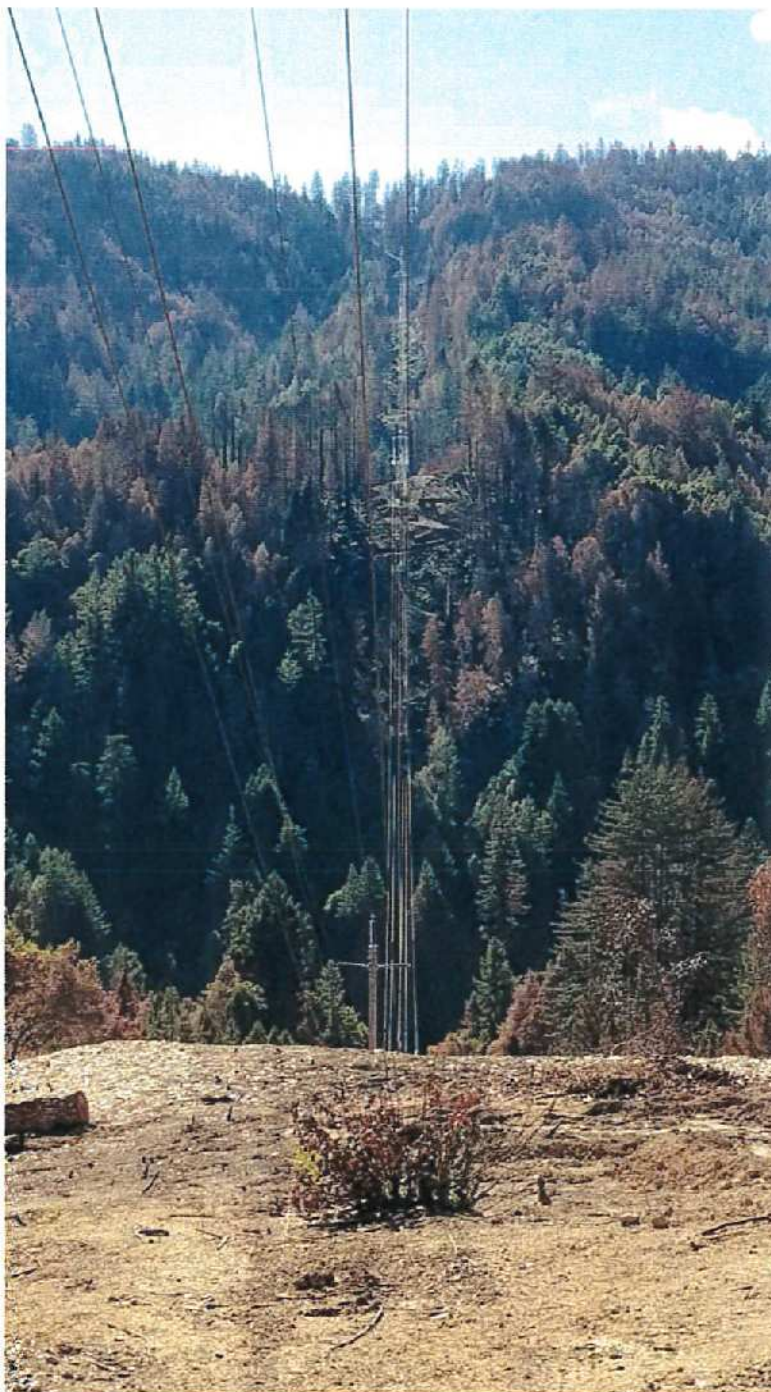


Photo taken 11-23-2020 by R. Sampson Photo Point RS-22. Shows Transmission ROW south from Bloom Grade with Empire Grade at top. Middle ridge is just North of Jamison Creek Road. Road seen in corridor lacks drainage and erosion control measures.

Considering the time of year, terrain, amount of homes and water intakes downslope, PG&E is strongly recommended to increase both the pace and quality of the erosion control work necessary to winterize their road infrastructure. It is also strongly recommended that contractors experienced with erosion control on steep ground on timberland be utilized to do this work. Using experienced Licensed Timber Operators, something required to


1-20NON-00122-SCR

conduct Timber Operations in California, would satisfy this recommendation. This recommendation was verbally passed on to your representatives during meetings on October 20, 2020 and November 25, 2020.

Due to these violations, I must again inform you that continued Timber Operations without the appropriate permits or continued violations of the operational sections of the Forest Practice Rules could result in charges being filed with the District Attorney or Civil action by the department. I must also again remind you that violations per PRC §§ 4601 and 4602 are considered misdemeanors and can be processed either criminally or civilly with penalties up to \$10,000 per count.

If you have any questions about these matters, you may contact me at the address below.

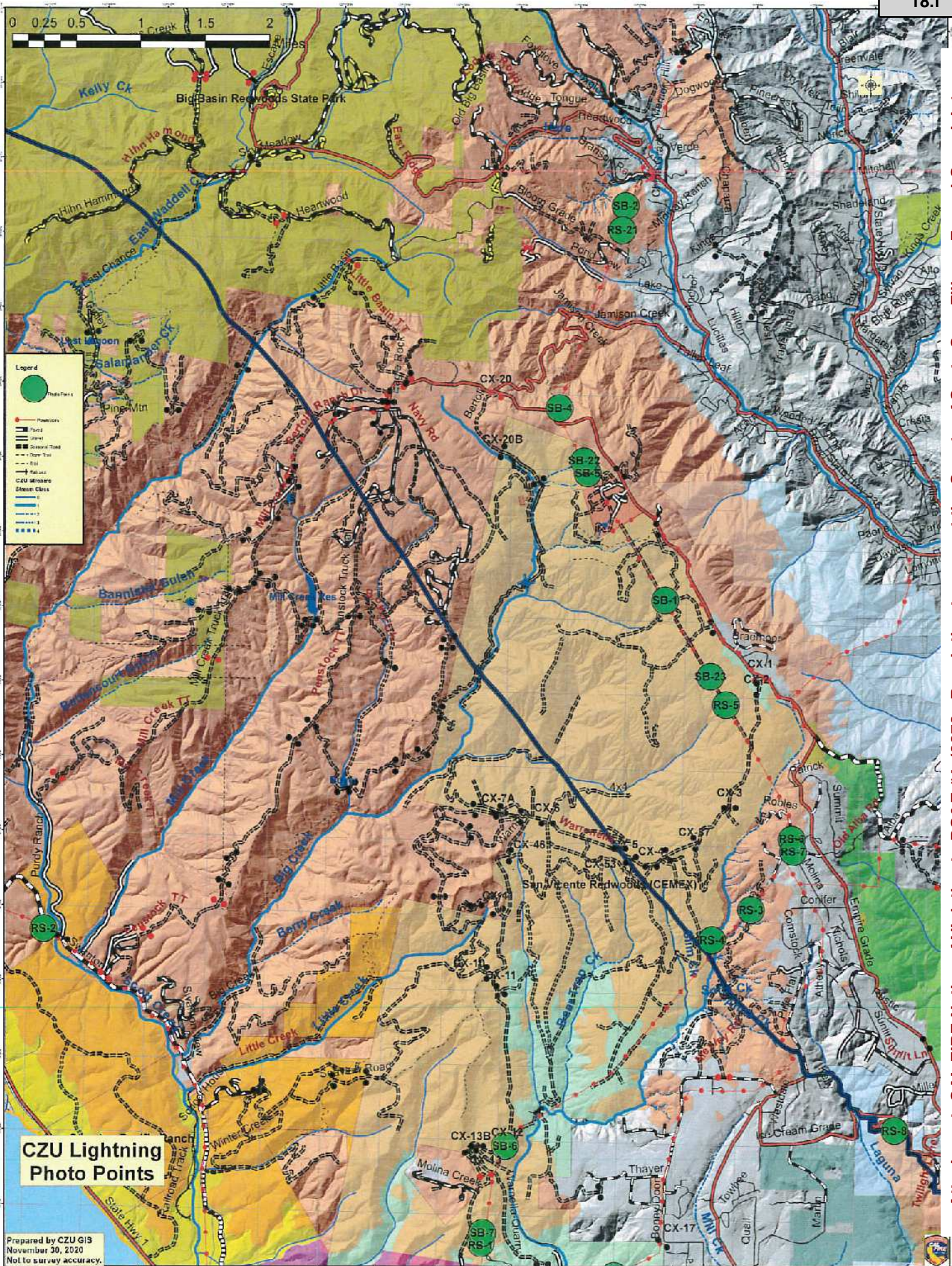
Sincerely,


Richard Sampson, RPF #2422
Forest Practice Inspector
6059 Highway 9 P.O. Drawer F-2
Felton, CA 95018
(831) 335-6740



Cc:
Region
Sacramento Program
Santa Cruz County District Attorney
California Department of Fish and Wildlife
Regional Water Quality
California Coastal Commission

Attachment: CAL FIRE Notice of Violation to PG&E #4 (9878 : Resolution to support the County of Santa Cruz Filing a Formal Complaint



Attachment: CAL FIRE Notice of Violation to PG&E #4 (9878 : Resolution to support the County of Santa Cruz Filing a Formal Complaint